

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**STEPHEN P. WALLACE, EDITH L.  
JACKSON, and LISA F. WALLACE,**

**Plaintiffs,**

**v.**

**JAMES M. KELLEY, JOAN  
GODLOVE, MICHAEL FREEMAN,  
MICHAEL KIRSCHNER, TRUST  
COMPANY OF OKLAHOMA, RONALD  
J. SAFFA, WILLIAM HARRISON,  
JAMES DIMON, JEFF KING, DAVID R.  
PAYNE, PATRICK JAGE, WINDY CITY  
PARTNERS, and JOHN DOES I - 10,**

**Defendants.**

**CASE NO. 4:06CV3214**

**MEMORANDUM  
AND ORDER**

This matter is before the court on plaintiff, Stephen Wallace's, Third Mandatory Judicial Notice and Demand (Filing No. 58), and plaintiff's Motion to Vacate and Set Aside Judgment (Filing No. 59).

The plaintiff filed his motion for relief of judgment pursuant to Fed. R. Civ. P. 60(b)(4). Fed. R. Civ. P. 60 states:

On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment.

The court has carefully reviewed the plaintiff's motion and finds no basis on which to vacate the judgment previously entered. Accordingly, plaintiff's Motion to Vacate and Set Aside Judgment of Dismissal is hereby denied.

IT IS ORDERED:

1. That plaintiff's Motion to Vacate and Set Aside Judgment (Filing No. 59) is denied;
2. Plaintiff's Third Mandatory Judicial Notice and Demand (Filing No. 58) is denied as moot.

DATED this 4<sup>th</sup> day of January, 2007.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge